

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARKESE CLARK,

Plaintiff,

v.

JAMES SHERMAN, et al.,

Defendants.

Civil Action No. 08-95 Erie

**MEMORANDUM ORDER**

AND NOW, this 18<sup>th</sup> day of February, 2009, and upon review, *nunc pro tunc*, of Plaintiff's resubmitted untimely filed objections [Doc. No. 27] to Magistrate Judge Susan Paradise Baxter's Report and Recommendation [Doc. No. 23], filed on December 18, 2008, recommending that Defendants' motion to dismiss or in the alternative for summary judgment [Doc. No. 13] be granted and that Defendants' renewed motion to dismiss or in the alternative for summary judgment [Doc. No. 20] be granted, the following order is entered:

IT IS HEREBY ORDERED that the Plaintiff's resubmitted objections [Doc. No. 27] are DENIED; the Defendants' motion to dismiss or in the alternative for summary judgment [Doc. No. 13] is GRANTED; and Defendants' renewed motion to dismiss or in the alternative for summary judgment [Doc. No. 20] is GRANTED.

The Report and Recommendation [Doc. No. 23] of Magistrate Judge Baxter, filed on December 18, 2008, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge